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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/544,196	04/06/2000	Kam Chan	2705-94	8932
20575	7590	07/30/2003		
MARGER JOHNSON & MCCOLLOM PC 1030 SW MORRISON STREET PORTLAND, OR 97205			EXAMINER	
			WAHBA, ANDREW W	
			ART UNIT	PAPER NUMBER
			2661	
DATE MAILED: 07/30/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/544,196	CHAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrew W Wahba	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 04/06/2000.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**Detailed Action**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-3, 5 and 7-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Shaffer et al.. Referring to claims 1 and 7, Shaffer et al. discloses a system that compares current processor availability with the expected processor usage required to establish a call. Inherent components of the system presented by Shaffer et al. are the usage of a computer-readable medium, the ability to detect incoming calls as well as the capability to assess processor utilization (see FIG. 1 and FIG. 4). Shafer et al. further presents a system of handling calls in the event that the processor resources required to establish a call are not available. The call is placed in a queue, and the processor is periodically monitored until it is able to support additional calls. In this manner, the call is temporally denied (see column 3, lines 7-14).

With respect to claims 2 and 8, Shaffer et al. identifies incoming calls as they are received. As incoming calls arrive, the current usage of the processor is compared to the additional usage required to support additional calls. The applicant does not present characteristics of the ring flag that would distinguish it from the manner in which Shaffer et al. recognizes incoming calls.

In reference to claim 3, Shaffer et al. discloses a method for monitoring processor load that assures that the processor resources available are greater than those required for the support of each additional call. In the event that the available resources exceed those required, the call is connected. In the alternate event that the required resources are greater than those available, the call is temporarily denied and placed in a queue, where available resources are later compared with those required to establish a call (see column 3, lines 7-14).

Regarding claim 5, Shaffer et al. discloses a system that does not allow the processor to become overloaded with the handling of an additional call. Therefore, the system must know the processors maximum capabilities are without degradation in service.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al.. Shaffer et al. discloses a system and method that compares resource availability with the recourse requirements needed to support an additional call. The applicant presents a similar system in which claims 4 and 6 limit the device such that

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the memory element is a NVRAM. NVRAM continues to store data in memory in the event that power is lost. Shaffer et al. does not disclose the specific type of memory device used in their system. In their system, Shaffer et al. may have selected anyone of a variety of memory devices. It would have been obvious to one of ordinary skill in the art to select NVRAM, to prevent the loss of information when power is lost.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kung et al. (Patent No. 6,570,855) is cited for its disclosure of a system that manages call volume to prevent overload of individual call managers.



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